

Case No. 16-60011

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

IN RE: LOREN MILLER AND SARAH MILLER

Debtors.

LOREN MILLER,

Appellant,

-against-

JEREMY W. FAITH, CHAPTER 7 TRUSTEE; SARAH MILLER

Appellees.

ON APPEAL FROM THE UNITED STATES BANKRUPTCY APPELLATE
PANEL FOR THE NINTH CIRCUIT

Bankruptcy Appellate Panel Case No. CC-15-1208

**APPELLEE’S RESPONSE TO APPELLANT’S “NOTICE: UNABLE TO FILE
REPLY” AND REQUEST FOR DENIAL OF FURTHER EXTENSIONS**

MARGULIES FAITH, LLP
Meghann Triplett, SBN 268005
Noreen A. Madoyan, SBN 279227
16030 Ventura Blvd, Suite 470
Encino, California 91436
Telephone: (818) 705-2777
Facsimile: (818) 705-3777

Attorneys for Appellee Jeremy W. Faith, Chapter 7 Trustee

Appellee Jeremy W. Faith, Chapter 7 Trustee for the bankruptcy estate of Loren and Sarah Miller (“Trustee-Appellee” or “Plaintiff”), hereby submits his response to the “Notice: Unable to File Reply Brief” (Ninth Circuit Dkt. No. 20, the “Notice”) filed by appellant and debtor Loren Miller (“Debtor-Appellant” or “Defendant”) in the appeal currently pending in front of the United States Court of Appeals for the Ninth Circuit (the “Ninth Circuit”) as case number. 16-60011 (the “Appeal”).

On September 21, 2016, Trustee-Appellee filed a copy of the Appellee’s opening brief, and excerpts of record volume 1 and 2 (together the “Appellee Brief”) (Ninth Circuit Dkt. No.’s 15 and 16). That same day, a true and correct copy of the Appellee Brief was served on the Debtor-Appellant. *See* Declaration of Helen Cardoza attached. Prior to service of the Appellee Brief a review of the printed documents was conducted to ensure the Appellee Brief was legible and complete. *Id.* Furthermore, a true and correct copy of the Appellee Brief and accompanying excerpts of record can be found on the Court docket, which based upon statements in the Notice, the Debtor-Appellant can readily access.

While Trustee-Appellee strongly disputes the Debtor-Appellant’s contentions in the Notice, in the interest of moving this Appeal forward as expeditiously as possible and out of an abundance of caution, the Trustee-Appellee will serve an

additional copy of the purportedly blank Excerpts of Record Volume 2, Tabs 18-29 on the Debtor-Appellant.

Trustee-Appellee asserts that the Notice is yet another bad faith pleading filed by the Debtor-Appellant as a method to delay the ultimate conclusion of this Appeal. Pursuant to the Order entered by the Ninth Circuit on August 3, 2016, the deadline for the Debtor-Appellant to file a reply to the Appellee Brief was 14 days after service of such, or October 5, 2016 (Ninth Circuit, Dkt. No. 13). The Debtor-Appellant's Notice, which covertly seeks to establish a new date to file a reply, was filed on October 17, 2016, twelve days after the deadline to do so had lapsed.

As such, the Trustee-Appellee requests that any further extensions for Debtor-Appellant to file a reply brief be denied, and the Appeal be considered, without oral argument, based on the pleadings on file.

DATED: October 19, 2016

MARGULIES FAITH, LLP

/s/ Noreen A. Madoyan
Meghann A. Triplett, Esq.
Noreen A. Madoyan, Esq.
Attorneys for Appellee Jeremy W.
Faith, Chapter 7 Trustee

DECLARATION OF HELEN CARDOZA

I, Helen Cardoza, declare that I am employed by the law firm of Margulies Faith, LLP, in the County of Los Angeles, State of California. I am employed by a member of the bar of this court. I am over the age of 18 years and am not a party to the within action. My business address is 16030 Ventura Blvd., Suite 470, Encino, CA 91436.

On September 21, 2016, I served a true and correct copy of the Appellee's Answering Brief and Excerpts of Record, Volumes 1 and 2 on Appellant Loren Miller and Appellee/Co-Debtor Sarah Miller through her attorney of record Robert E. Hurlbett. I served the copies double sided, 1 page per side, and personally inspected the service copies for readability and completeness and all copies were complete and readable.

I declare under penalty of perjury under the laws of the State of California and of the United States of America that the foregoing is true and correct. Executed at Encino, California on October 19, 2016



Helen Cardoza

CERTIFICATE OF SERVICE

CASE NO. 16-60011

LOREN MILLER VS. JEREMY W. FAITH, TRUSTEE, ET. AL.

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the Ninth Circuit by using the appellate CM/ECF system on October 19, 2016.

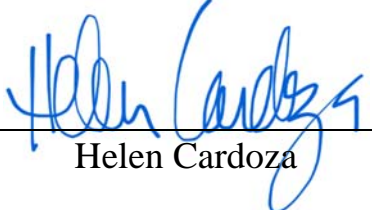
The following are participants in the case who are registered CM/ECF users and will be served by the appellate CM/ECF system:

- Meghann A. Triplett, Attorney for Appellee, Jeremy W. Faith, Chapter 7 Trustee
- Noreen A. Madoyan, Attorney for Appellee, Jeremy W. Faith, Chapter 7 Trustee

I further certify that I have mailed the foregoing documents by First-Class Mail, postage prepaid for delivery to the following non-CM/ECF participants:

Loren Miller
11356 Merado Peak Drive
Las Vegas, NV 89135
Appellant/Debtor

Robert E. Hurlbett
Hurlbett & Olmstead
3324 State Street, Suite O
Santa Barbara, CA 93105
Attorney for Appellee/Co-Debtor



Helen Cardoza